

### REMARKS

Claims 1, 5, 6, 9, 10, 13, 14, 39, 40, 43, 44 and 47 are pending. Claims 2 – 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 27 – 33, 35 - 38, 41, 42, 45, 46, 48 and 49 have been cancelled.

The pending claims have been amended to correct typographical and formatting errors.

#### Cancellation of the Non-elected Claims

The Examiner requires Applicants to cancel the non-elected Claims. These Claims were previously designated as “withdrawn.” In response, Applicants have cancelled these claims and reserve the right to pursue them in a divisional application.

#### Rejection of Claim 2 under 35 U.S.C. 103

The Examiner rejects Claim 2 under 35 U.S.C. 103(a) as being unpatentable over May et al. (WO 95/19981).

In response and in order to advance the application to allowance, Applicants have cancelled Claim 2 without prejudice and reserve the right to pursue the subject matter of Claim 2 in a continuing application.

#### Rejection of Claims 1, 2, 5, 6, 9, 10, 13, 14, 39, 40, 43, 44 and 47 under 35 U.S.C. 112

The Examiner rejects Claims 1, 2, 5, 6, 9, 10, 13, 14, 39, 40, 43, 44, and 47 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a pharmaceutically acceptable salt, does not reasonably provide enablement for solvates of the compounds.

In response and in order to advance the application to allowance, Applicants have amended the Claims to eliminate “or solvate”. Applicants reserve the right to pursue the cancelled subject matter in a continuing application.

Applicants believe that the above amendments and remarks have placed Claims 1, 5, 6, 9, 10, 13, 14, 39, 40, 43, 44 and 47 in condition for allowance. Accordingly, allowance of the claim in this application is respectfully requested.

Respectfully submitted,

ALCON



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1/25/05  
Date

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